TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 83.

PEOPLE'S SAVINGS BANK, PLAINTIFF IN ERROR,

vs.

THE CITY OF DES MOINES AND THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW.

IN ERROR TO THE SUPREME COURT OF THE STATE OF IOWA.

FILED JULY 24, 1905.

(19,853.)

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1 PEOPLES SAVINGS BANK, Plaintiff,

vs.

CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Defendant.

2 In the Supreme Court of the State of Iowa.

PEOPLES SAVINGS BANK, Plaintiff in Error,

vs.

CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Defendants in Error.

Be it remembered that on the 22nd day of March, A. D. 1904, there was filed in the said cause the appellant's abstract in the words and figures following to-wit:

3 Due, timely and legal service of the within abstract is hereby acknowledged this 21 day of March, 1904.

W. H. BREMNER,
M. H. COHEN,
R. B. ALBERSON,
Attorneys for Appellees.

In the Supreme Court of Iowa, May Term, 1904. In Equity.

PEOPLES SAVINGS BANK, Appellant,

vs.

CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellees.

Appeal from Polk District Court.

Hon. James A. Howe, Judge.

N. T. Guernsey, Attorney for Appellant.
W. H. Bremner, M. H. Cohen, R. B. Alberson, Attorneys for Appellees.

Filed March 22, 1904.

JNO. C. CROCKETT,
Clerk Supreme Court.

On the second day of May, A. D. 1902, the plaintiff filed in the Polk district court a

Notice of Appeal

from its assessment for the year 1902, which notice was in the words and figures following, to-wit:

To James M. Brenton, Mayor, and Wm. H. Brerton, Presiding Officer of the Board of Review of the City of Des Moines, Polk County, Iowa:

You are hereby notified that the People's Savings Bank, of Des Moines, Iowa, has appealed and does hereby appeal to the district court of Polk county, Iowa, from the action of the board of review of the city of Des Moines with reference to a certain complaint filed by the People's Savings Bank with said board of review in regard to its assessment on corporation stock for the year 1902 and from the action of said board of review in refusing to reduce the assessment against said bank for the year 1902 under the heading of "corporation stock," as requested in the written complaint filed by said bank with said board.

And you are further notified that the matter will come on for hearing at the next, being the September, 1902, term of said court, which will be begun and held at Des Moines, Iowa, on the 15th day of September, A. D. 1902. And unless you appear thereto and defend before noon of the second day of said term default will be entered against you and decree rendered as prayed.

PEOPLE'S SAVINGS BANK,
By N. T. GUERNSEY,
Its Attorney.

Service of the said notice was accepted on the second day of May, 1902, by J. M. Brenton, the then mayor of the city of Des Moines, and by W. H. Brerton, a member of the city council of said city and presiding officer of the city council of said city acting as a board of review.

In the said matter the said People's Savings Bank by
5 leave of court filed its objections to the assessment complained of in the words and figures following, to-wit:

Statement of Objections.

The Peoples Savings Bank, by leave of court first had and obtained, makes the following statement of its objections to the assessment from which this appeal is taken, and statement with reference to the taxes levied upon the said assessment.

I.

The assessment appealed from includes the bonds of the United States of America to the value of sixty-two thousand and sixty dol-

lars ($62,060.00) which were owned by the said Peoples Savings Bank on the first day of January, 1902, and constituted a part of the property in which its capital stock was invested, which bonds were not subject to assessment and taxation by the state of Iowa, or any of its subdivisions, and for this reason the said sum of sixty-two thousands and sixty dollars ($62,060.00) should be deducted from the amount of the said assessment.

II.

In the said assessment there is included an assessment on account of twenty shares of stock of the Oak Park Land Company of the value of eight hundred and forty dollars ($840.00) owned by the said Peoples Savings Bank, on the first of January, 1902. That the said Oak Park Land Company is a corporation created, organized and existing under the laws of the state of Iowa, with its principal place of business in the city of Des Moines, in the said state, whose property consisted, to a very large extent, if not entirely, of real estate taxed directly to the said Oak Park Land Company, and that under the laws of the state of Iowa, the stock in the said cor-
6 poration is not taxable on account of the said real estate, and whatever value, if any, it has in addition thereto, is taxable through the said Oak Park Land Company to the said Peoples Savings Bank as a stockholder in said company, and to include same in this assessment is to tax the said Peoples Savings Bank twice on account of its ownership of said stock.

III.

That in the said assessment there is included six shares of the stock of the Citizen's National Bank, of Des Moines, Iowa, and which is a banking association, organized under the laws of the United States, which said stock was the property of the said Peoples Savings Bank on the first of January, 1902. That the said stock is taxable, under the laws of Iowa, to the said Peoples Savings Bank as a stockholder in the said Citizen's National Bank, and that to include its value in the assessment appealed from is to tax the said Peoples Savings Bank twice on account thereof.

IV.

That in the said assessment appealed from there is included seventeen shares of the capital stock of the Des Moines Insurance Company, a corporation created, organized and existing under the laws of the state of Iowa, with its principal place of business in the city of Des Moines, Iowa, which stock in the said Des Moines Insurance Company was owned by the said Peoples Savings Bank on the first of January, 1902. That the said Peoples Savings Bank is taxable under the laws of the state of Iowa upon the said stock through the said Des Moines Insurance Company, and that to include the same in the said assessment appealed from is to tax the said Peoples Savings Bank twice on account thereof.

V.

That there was included in the said assessment ten shares of the capital stock of the State Trust Company of the value of one
7 thousand dollars, owned by the said Peoples Savings Bank on the first of January, 1902, on account of which stock the said Peoples Savings Bank was taxable under the laws of Iowa through the said State Trust Company, and that to include the same in this assessment is to tax the said Peoples Savings Bank twice on account of the said stock.

VI.

That if, or in so far as the statutes of the state of Iowa relative to the taxation of this appellant, authorize the assessment of the bonds of the United States of America, owned by the said Peoples Savings Bank, for taxation, and the levy of a tax upon the same, the said laws are void because in contravention of the statutes of the United States and of the provision in Section 8 of Article I of the Constitution of the United States, to the effect:

"That the Congress shall have power * * * to borrow money on the credit of the United States" and said Peoples Savings Bank expressly claims the benefits and immunities of the said provision of the Constitution of the United States.

VII.

That if, or in so far as Section 1322 of the code of Iowa authorizes the assessment to the said Peoples Savings Bank of the shares of the capital stock of the said bank which are the property of its stockholders, and if, and in so far as the said section and the laws of Iowa authorize the levy of a tax against the said Peoples Savings Bank on account of the value of the said shares, and based on said assessment, the said statutes authorize the collection from the said Peoples Savings Bank of a tax levied, not upon its property, but upon the property of others, and that this constitutes a taking of the property of the said People's Savings Bank without due process of law, in contravention of the provisions of Section 1 of Article XIV of the Constitution of the United States, which section is as follows:

8 "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

And the said Peoples Savings Bank expressly sets up and claims the benefits and immunities of the said provision of the Constitution of the United States.

VIII.

That the said section 1322 of the statutes of the state of Iowa in fact require- the assessment and taxation of the property of the cor-

poration, the Peoples Savings Bank, and that under the said section the said Peoples Savings Bank is entitled to have deducted from the assessed value of the property in which its capital stock is invested, the amount of its government bonds, and corporation stocks hereinbefore specified, and that if, and in so far as the said section does not authorize the deduction of the value of the said bonds of the United States of America, the same is in contravention of each of the provisions of the Constitution of the United States hereinbefore referred to which are set up by the said bank and the immunities and benefits of which are expressly claimed by the said bank.

IX.

That upon the assessment from which this appeal was taken taxes were levied amounting, in the aggregate, to the sum of two thousand three hundred and sixty-five 84-100 dollars, which taxes were demanded from the said Peoples Savings Bank by the county treasurer of Polk County, Iowa, and that the first installment of said taxes amounted to one thousand one hundred eighty-two and 92-100 dollars ($1,182.92), and that the second installment thereof was of the same amount, making a total of two thousand three
9 hundred sixty-five and 84-100 dollars ($2,365.84); that on or about the first day of April, 1903, the said Peoples Savings Bank paid the first installment of the said taxes, and that on or about the seventh day of October, 1903, the said People's Savings Bank paid the second installment of the said taxes; that each of the said payments was made by the said Peoples Savings Bank under protest and with an express reservation of the right to resort to such legal proceedings, or take such other steps as might be necessary to recover the amount of the taxes illegally exacted.

That the said payments were so made under protest in order to avoid the liability for the excessive penalties which accrue in the event of the failure to pay taxes at or before the date when they become delinquent, and in order that pending the determination of the questions involved in this appeal, the state might not be deprived of the revenue to which it would be entitled upon a tax based upon a legal assessment against the said Peoples Savings Bank.

Wherefore the said Peoples Savings Bank prays that its appeal may be allowed, and that the assessment made may be set aside, and that a legal assessment may be made, and that upon the making of the same, an order be made fixing the amount of taxes which have been paid by it, and that the excess paid by it be ordered refunded, with interest, and for all other proper orders in the premises.

Evidence.

Thereafter, and on the 14th day of October, 1903, it being one of the regular days of the September term, 1903, of the said court, the said matter came on for hearing before Hon. James A. Howe, one of the judges of the said court, and thereupon the following proceedings were had:

Admission.

It is admitted that the Peoples Savings Bank is a corporation organized under the laws of the state of Iowa as a savings
10 bank, and was such January 1, 1902, and ever since that time has been, and that on January 1, 1902, it had a paid up capital of $100,000.00.

C. H. MARTIN, sworn on the part of plaintiff, testified as follows: I am cashier of the Peoples Savings Bank, the plaintiff or appellant in this proceeding, and was such cashier on the 1st day of January, 1902, and prior to that time. At that time the stock in the bank was held by quite a number of stockholders, approximately thirty-five, and was held by them in varying amounts.

Exhibit 1 is a correct statement of the resources and liabilities of the Peoples Savings Bank January 1, 1902. The assessment of the bank in the first instance in 1902 was made by F. A. French, the assessor in the city of Des Moines at that time; when he made this assessment I made him a statement of the resources and liabilities of the bank as of January 1, 1902. Exhibit 1 is a substantial copy of the statement which I furnished to Mr. French at that time, and it shows the resources and liabilities of the bank on January 1, 1902, just as they were shown by the statement I so furnished to Mr. French.

At the time this assessment was made I offered to permit the assessor to examine the books of the bank and offered to furnish him any information as to its condition which he desired.

In the resources of the bank there was corporation stock aggregating on the 1st of January, 1902, $4,040.00. This stock is listed at the bottom of this statement Exhibit 1.

Referring to the first item, certificate No. 322 for some shares of stock in the Oak Park Land Company, that company was an
11 Iowa corporation having its principal place of business in Des Moines, and substantially all of its assets were real estate.

The next item is six shares of stock in the Citizen's National Bank carried at $1,000.00. This is the Citizen's National Bank, of Des Moines, Iowa, organized under the national banking law.

The next is a certificate for seventeen shares in the Des Moines Insurance Company which is an Iowa corporation with its principal place of business in Des Moines.

The last item is for ten shares of stock in the State Trust Company, which is another Iowa corporation with its principal place of business in Des Moines.

All of this testimony as to the character of these corporations commencing with the Oak Park Land Company, was objected to as irrelevant and immaterial.

A list of the real estate which appears in the resources of the bank, valued at $14,000.00 is as follows:

Lots 35 and 36, in First Addition to University Place; assessed value $1,440.00; taxable value $360.00.

Lot 219, First Plat of Clifton Heights, assessed value $200.00; taxable value $50.00.

South half of Lot 4, Greenwood Park, assessed value $4,160.00; taxable value $1,040.00.

Lot 8 and the east 15 feet of Lot 7, Oakdale Addition, assessed value $680.00; taxable value $170.00.

Lot 65 Lakeside, assessed value $120.00; taxable value $30.00.

Lot 61, third Plat of Prospect Park, assessed value $1,880.00; taxable value $470.00.

The foregoing testimony as to the real estate was objected
12 to by defendant and appellee- as irrelevant and immaterial.

Exhibit 1 states correctly the actual resources and liabilities of the bank on January 1, 1902.

In Exhibit 1 there is an item, U. S. Bonds $57,000.00 and premium on the same $5,060.00. These were bonds issued by the United States of America owned by the bank, and the premium just stated is the premium which they were worth in the market on the 1st of January, 1902. As to the character of the bonds they were U. S. Coupon 3's. I am not entirely certain about that, either 2's or 3's.

EXHIBIT 1.

The plaintiff and appellant here offered in evidence Exhibit 1 which is as follows:

Monthly Statement to the Des Moines Clearing House Association of the Condition of the Peoples Savings Bank of Des Moines, Iowa, at Close of Business January 1, 1902.

Resources.

Loans and discounts		$959,521.61
Overdrafts		10,003.72
Premium on U. S. Bonds		5,060.00
U. S. Bonds		57,000.00
Other bonds, stocks and mortgages see list below		4,040.00
Banking House and other real estate and furniture and fixtures		14,000.00
Due from other Banks	$72,221.26	
" " U. S. Treas.		
Cash on hand	34,569.81	106,791.07
Total		$1,156,416.40

13 *Liabilities.*

Capital stock	$100,000.00
Surplus fund	25,000.00
Undivided profit less expenses, taxes, etc	9,871.98
Circulating notes	
Dem'd Dep'ts (ind.)	
Time deposits	1,019,757.75
Dividends unpaid	1,786.67
Bills re-discounted	
Bills payable	
Total	$1,156,416.40

Ctf.	No. 322-20	shares	stock	Oak Park Land Co. $840.00
"	No. 428-6	"	"	Citizens Nat. Bank 1,000.00
"	No. 114-17	"	"	D. M. Insurance Co. 1,200.00
"	No. 7—10	"	"	State Trust Co. 1,000.00
	Total			$4,040.00

STATE OF IOWA, *Polk County, ss:*

I, C. H. Martin, cashier of the People's Savings Bank, Des Moines, Iowa, do solemnly swear that the above statement is true to the best of my knowledge and belief.

(Signed) C. H. MARTIN, *Cash.*

Subscribed and sworn to before me this 14th day of October, 1903.

(Signed) HARRY SOAR,
[SEAL.] *Notary Public.*

When Mr. French made the assessment of the property of the bank to which I have referred he handed me a notice of the assessment which I now produce and which is marked Exhibit 2, which is as follows:

14 EXHIBIT 2.

N. B.—Be particular to take Name and Address Correctly.

Assessment Roll, 1902. No. 6575.

——, POLK COUNTY, IOWA, *Apr. 9th*, 1902.

Assessment of People's Savings B'k. Age, —. Address: 7th and Locust. Dist.: 2nd. Road Dist. No. —. School Dist.: W. D. M. Dogs—Male, No. —; Female, No. —.

Description of Personal Property.

	No.	Actual Value.
Horses.		
Colts 1 year old		
" 2 " "		
Horses 3 years old and over		
Stallions		
Mules and Asses.		
Mules and Asses over 1 year old		
Cattle.		
Heifers 1 year old		
" 2 " "		
Cows		
Steers 1 year old		
" 2 " "		
" 3 " " and over		
Feeding Cattle		
Bulls		
Miscellaneous.		
Swine over 6 months old		
Sheep " 6 " "		
Goats " 6 " "		
Vehicles, including Bicycles		
Household Furniture		
Moneys and Credits from Form No. 2		55171.98
Corporation Stock		
Merchandise, Date of Inv		
Capital employed in Manufacturing		
Other Personal Property		
Total Actual Personal Property		

New Buildings Erected During 1899.

Description.	Sec. or Lot.	Twp. or Block.	R.	Actual Value.	Taxable Value.
....	.....	.....	.....	.....	.....
... .	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

To People's Savings Bank:

You are hereby notified that if you are not satisfied, that the foregoing assessment is correct, you can appear before the Board of Review, which meets at the office of City, Township Clerk on the first Monday of April, 1900.

Dated this 9th day of Apr., 1902.

Remember, if you fail to appear before this Board you lose your rights to a hearing before any body. The Board of Supervisors have absolutely no authority over your assessment and the courts cannot hear you except on appeal from the Board of Review.

F. A. FRENCH,
Assessor, —— Township.

15 This shows $55,171.98 moneys and credits.

I received Exhibit 3 by mail. I had no interview with the assessor or with either of his deputies relative to the resources and liabilities of the bank or relative to the new assessment prior to receiving this Exhibit 3.

Admission.

It is admitted that J. G. Beck was deputy assessor and that the signature to Exhibit 3 is his signature.

Plaintiff here offered in evidence Exhibit 3 which is as follows:

16 EXHIBIT 3.

N. B.—Be particular to take Name and Address Correctly.

Assessment Roll, 1902. No. 400.

——, POLK COUNTY, IOWA, *April* 22, 1902.

Assessment of Peoples Savings Bank. Address: ——. ——Twp., Dist. 2nd. Road Dist. No. —. School Dist. W. D. M. Dogs—Male, No. —; Female, No. —.

Description of Personal Property.

	No.	Actual Value.
Horses.		
Colts 1 year old		
" 2 " "		
Horses 3 years old and over		
Stallions		
Mules and Asses.		
Mules and Asses over 1 year old		
Cattle.		
Heifers 1 year old		
" 2 " "		
Cows		
Steers 1 year old		
" 2 " "		
" 3 " " and over		
Feeding Cattle		
Bulls		
Miscellaneous.		
Swine over 6 months old		
Sheep " 6 " "		
Goats " 6 " "		
Vehicles, including Bicycles		
Household Furniture		
Moneys and Credits from Form No. 2		
Corporation Stock		122871
Merchandise, Date of Inv		
Capital employed in Manufacturing		
Other Personal Property		
Total Actual Personal Property		

New Buildings Erected During 1899.

Description.	Sec. or Lot.	Twp. or Block.	R.	Actual Value.	Taxable Value.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

To Peoples Savings Bank:

You are hereby notified that if you are not satisfied, that the foregoing assessment is correct, you can appear before the Board of Review, which meets at the office of City, Township Clerk on the first Monday of April, 1900.

Dated this 22 day of April, 1902.

Remember, if you fail to appear before this Board you lose your rights to a hearing before any body. The Board of Supervisors have absolutely no authority over your assessment and the courts cannot hear you except on appeal from the Board of Review.

J. G. BECK,
Deputy Assessor, —— Township.

[Written across face:] 2nd notice.

17 EXHIBIT 4.

The plaintiff here offered in evidence the stub No. 6575 from the assessment roll book of 1902 marked 2nd District Personal, said stub being as follows:

N. B.—All property must be listed at its actual cash value. Taxes are Levied on 25 per cent. of same.

Assessment Roll, 1902. No. 6575.

——, POLK COUNTY, IOWA, *Apr. 9th*, 1902.

Address: People's Savings B'k, 7th and Locust. Age, —. Dist.: 2nd. Road Dist. No. —. School Dist.: W. D. M. Dogs—Male, No. —; Female, No. —.

Description of Personal Property.

	No.	Actual Value.
Horses.		
Colts 1 year old		
" 2 " "		
Horses 3 years old and over		
Stallions		
Mules and Asses.		
Mules and Asses over 1 year old		
Cattle.		
Heifers 1 year old		
" 2 " "		
Cows		
Steers 1 year old		
" 2 " "		
" 3 " " and over		
Feeding Cattle		
Bulls		
Miscellaneous.		
Swine over 6 months old		
Sheep " 6 " "		
Goats " 6 " "		
Vehicles, including Bicycles		
Household Furniture		122,871
Moneys and Credits from Form No. 2		[55,171.98]*
Corporation Stock		
Merchandise, Date of Inv		
Capital Employed in Manufacturing		
Other Personal Property		
Total Actual Personal Property		

[* Figures enclosed in brackets erased in copy.]

New Buildings Erected During 1901.

Land Description (Addition).	Sec. or Lot.	Twp. or Block.	R.	Actual Value.	Taxable Value.
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

STATE OF IOWA, *Polk County, ss:*

I, —— ——, do solemnly swear (or affirm) that I am the person assessed above, that I have read the foregoing Assessment Roll of property listed or assessed to me, and that the same is a full, true and correct list of my taxable property, both real and personal property, subject to taxation within this District, and all property which should be listed on this Assessment Roll to me or by me.

—— ——.

Subscribed and sworn to (or affirmed) this 9th day of Apr., 1902.
F. A. FRENCH, *Assessor.*

18 *Admission.*

It is admitted by both parties that the stub exhibit 4 is the only stub upon which the two notices Exhibits 2 and 3 were issued, and that it is the only assessment in the assessment roll book against the plaintiff.

Plaintiff offered in evidence the following from the book marked "Assessor's Book 1902, City of Des Moines, 2d District, Polk County," on double page 115.

Assessment roll No. 6575. Name Peoples Savings Bank. Address 7th & Locust street.

Total value personal —.

Actual value.	Taxable value.	Moneys and credits.
$122,871	$30,718	$122,871

Admissions.

It is admitted that the book above referred to as "Assessment Book 1902, City of Des Moines, second district Polk County," is the book which the city council acting as a board of review had before it when it acted upon the assessment of the Peoples Savings Bank, and that the said book was the only record of the said assessment which the said board of review had before it when it acted upon the same except the assessment roll stub exhibit 4.

It is admitted that exhibits 5 and 6 are protests or objections, filed by the Peoples Savings Bank with the city council acting as a board of review against the assessment in controversy, except that the blue mark upon the same and the recommendations of the committee on the same were put on after they were filed.

It is further admitted that both of said exhibits 5 and 6 were filed with the board of review on the 22d day of April, 1902.

The witness continued:

I remember that exhibit 3 was received by me upon the morning that I appeared before the board of review and filed with the board exhibit 6 which was written by me except the recommendations of the committee.

19 The plaintiff here offered in evidence exhibits 5 and 6 which are as follows:

EXHIBIT 5.

To the City Council of the City of Des Moines, Sitting as a Board of Review:

The Peoples Savings Bank, making more specific the objections it has made orally and in writing to its assessment, of which it received notice April 22, 1902, said assessment being for the sum of $122,879.00, under the heading "corporation stock," states:

That the errors complained of in the said assessment are as follows:

First: In the said assessment there is assessed to the said Peoples Savings Bank the sum of sixty-two thousand dollars on account of the bonds of the United States of America, owned by the said bank on the first day of January, 1902, which bonds were not subject to assessment and taxation, and that on this account the sum of fifty thousand dollars should have been deducted from the amount of the said assessment.

Second: That in the said assessment there is included an assessment of one thousand seven hundred dollars as the value of certain stock in a corporation, to-wit, the Oak Park Land Company, whose property consists almost entirely of real estate, and that the said assessment against the People's Savings Bank is erroneous in that it is assessed with the total value of the said stock, whereas under the law that portion of the value of the said stock which is represented by the real estate should have been assessed to the said corporation, and the said assessment, in assessing the same to the Peoples Savings Bank, is erroneous.

Third: That the said assessment is erroneous in that it includes three thousand one hundred dollars as the value of certain stocks in other corporations not hereinbefore mentioned. That the stocks so erroneously included are assessed to the respective corporations by which they have been issued and the taxes upon the same
20 are paid by the said respective corporations, and that the value of the said stock should not therefore be included in the

assessment against the said Peoples Savings Bank, or assessed against the said bank.

Wherefore, The said Peoples Savings Bank renews its complaint that the said assessment against it is erroneous for the reasons hereinbefore set out, and renews its request that in the particulars in which the said assessment is so erroneous the same may be rectified.

PEOPLE'S SAVINGS BANK,
By N. T. GUERNSEY, *Its Attorney.*

Filed April 22, 1902.
E. R. BENNETT, *City Clerk.*

EXHIBIT 6.

APRIL 22, 1902.

The Peoples Savings Bank, Des Moines, Iowa, protest on the assessment of the shares of stock for the reason that the assessor has refused to allow deduction for the government bonds, and also for the corporation stocks owned and held by said bank at time said assessment was made, January 1, 1902.

PEOPLE'S SAVINGS BANK,
By C. H. MARTIN, *Cash.*

Filed April 22, 1902.
E. R. BENNETT, *City Clerk.*

Plaintiff and appellant offered from double page 243 of the tax list for 1902 of the Second District, Polk county, Iowa, personal, now being within the city of Des Moines, the following:

Owner's name, People's Savings Bank; description, 7th & Locust; taxable value of personal, $30,720; consolidated tax, first installment, $1,182.72; second installment, $1,182.72; total, each installment, first installment, $1,182.72, second $1,182.72; date of payment, first installment 3-31-03; second installment 9-18-03.

21 Cross-examination:

Q. How long after January 1, 1902, did the bank remain the owner of the United States bonds to which you have referred in your direct examination?

Objected to as irrelevant and immaterial.

A. A part of them I think we sold the latter part of January and the balance the 1st of February.

Q. How long prior to January 1, 1902, had the bank been the owner of these bonds?

Same objection.

A. About forty days.

Q. For what purpose were these bonds purchased?

A. So that we would not have to pay taxes on that much of the capital stock.

Plaintiff and appellant offered in evidence the notice of appeal from the assessment in question market exhibit 7, together with the

acceptance of service thereon by the mayor of the city and by the presiding officer of the board of review of the said city of Des Moines.

EXHIBIT 7.

Exhibit 7 is the notice of appeal already set out and which is not here repeated.

Admission.

It is admitted that W. R. Brereton was the presiding officer of the Board of Review of the City of Des Moines during its existence as a board of review in the year 1902, and that on the 2d day of May, 1902, J. M. Brenton was the mayor of the city of Des Moines, and that the signatures of the said officers to the said acceptance of service are the genuine signatures of said officers.

And it is further admitted that the said exhibit 7 was filed with the clerk of this court on May 3, 1902.

It is admitted that the city council of the city of Des
22 Moines sitting as a board of review in the year 1902 adjourned on the 29th day of April of said year.

The plaintiff offered in evidence all of the record of the city council of the city of Des Moines sitting as a board of review relative to the assessment of the People's Savings Bank now in controversy, as follows:

Extract from the minutes of the City Council, sitting as a Board of Review, meeting held on the 7th day of April, 1902, found on page 59 of the printed record published by authority of the city on May 26, 1902.

"No. 166: Communication from City Assessor presented as follows:

GENTLEMEN: I will not be ready to meet with the Board of Review until the 21st of April, 1902, to equalize assessments. I would suggest the following days for each district: First and second districts, April 21st and 22d; third district, April 23d; fourth district, April 24th; fifth and sixth districts, April 25th; seventh district, April 26th; eighth district, April 28th; ninth district, April 29th.

I also think it would be wise for the Board of Review to instruct the city clerk to publish the various days for the various districts.

Respectfully submitted,

(Signed) F. A. FRENCH,
City Assessor."

"Moved by Brereton to adopt the recommendation. Motion carried. Yeas 8, nay- none. Whitney not voting."

Objected to by the defendant- and appellee- as incompetent, irrelevant and immaterial.

Extract from the minutes of the City Council, sitting as a Board of Review on the 22d day of April, 1902, as found on pages 111 and 112 of the proceedings of the city council, published by authority of the city May 26, 1902.

"No. 319. Protests of the State Savings Bank and Geo. E. Pearsall, Des Moines Savings Bank, Arthur Reynolds and all other stockholders of the Valley National Bank and the Des Moines National Bank, Peoples Savings Bank, Citizen's National Bank and
23 Geo. E. Pearsall, Iowa National Bank and H. T. Blackburn for the stockholders of said Iowa National Bank, R. A. Crawford, and all other stockholders of the Valley National Bank, Consumers' Supply Company, W. A. Hotchkiss, Andrew Noegard, P. F. Collier & Son, presented, to each of which the following recommendation was attached. We recommend the assessment stand approved as made by the Assessor.

(Signed) W. H. BRERETON.
JOHN HARLEY.
W. S. FRALEY.
E. A. HIGGINS.

Moved by Van Dyke that recommendations of the committee be adopted and assessments stand approved. Motion carried. Yeas 7, nays none."

"No. 320. To the Honorable City Council sitting as a Board of Review:

That your committees on first and second assessorial districts recommend that the assessments in both districts stand approved as made by the assessor.

(Signed) W. S. FRALEY.
E. A. HIGGINS.
JOHN HARLEY.
W. H. BRERETON.

Moved by Whitney to adopt, and assessment stand approved as made by the assessor. Motion carried. Yeas, 7, nays, none."

Objected to by the defendant- and appellee- as incompetent, irrelevant and immaterial.

"Extract from the proceedings of the City Council, sitting as a Board of Review on the 29th day of April, 1902, found on pages 135 of the printed record of the proceedings of the City Council, published by authority of the city May 26, 1902.

"No. 383. Moved by Prunty that assessments in the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th and 9th assessorial districts stand approved. Motion carried. Yeas 6, nays none."

Objected to by the defendant- and appellee- as incompetent, irrelevant and immaterial.

24 C. H. MARTIN, recalled, testified as follows:

Exhibit 9 is a letter written by me to Mr. Layman, treasurer of this county, on or about the 1st of April, 1903, and his acknowledgement of the receipt of it, and exhibit 8 is a similar letter and acknowledgement.

During this year the treasurer has kept some deposits in our bank. The method of paying the taxes is for him to send the bank a receipt and it gives credit to his account. The payments referred to in these two exhibits 8 and 9 are the payments of the taxes for 1902 levied on the assessment in controversy herein.

Plaintiff here offered in evidence exhibits 8 and 9, which were objected to as incompetent, immaterial and irrelevant.

The said exhibits are as follows:

EXHIBIT 8.

DES MOINES, IOWA, *Oct.* 2, 1903.

A. W. Layman, Esq., Treasurer of Polk County, City.

DEAR SIR: We have this day credited your account $1,182.92 in payment of the second installment of personal taxes of the Peoples Savings Bank, Des Moines, Iowa, for the year 1902, as shown by the tax receipt forwarded to us by you, including the taxes on Sixty Thousand ($60,000.00) Dollars of United States Government bonds owned by this bank January 1, 1902, which taxes on said bonds I hereby pay under protest for the reason that I believe same are not subject to taxation and I hereby reserve the right of this bank to resort to legal proceedings or take any necessary steps hereafter to recover the amount of taxes paid on said bonds by this bank this day.

Yours truly, C. H. MARTIN, *Cash.*

25 Received the above notice this 2d day of October, 1903.

A. W. LAYMAN,
Treasurer of Polk County.

EXHIBIT 9.

DES MOINES, IOWA, *April* 1, 1903.

A. W. Layman, Esq., Treasurer of Polk County, City.

DEAR SIR: We have this day credited your account $1,182.92 in payment of the first installment of personal taxes of the Peoples Savings Bank, Des Moines, Iowa, for the year 1902, as shown by tax receipt forwarded to us by you, including the taxes on Sixty Thousand ($60,000.00) Dollars of United States Government bonds, owned by this bank January 1, 1902, which taxes on said bonds I hereby pay under protest for the reason that I believe same are not subject to taxation and I hereby reserve the right of this bank to resort to legal proceedings or take any necessary steps hereafter to recover the amount of taxes paid on said bonds by this bank this day.

Yours truly, C. H. MARTIN, *Cash.*

Received the above notice, this 1st day of April, 1903.

A. W. LAYMAN,
Treasurer of Polk County.

Thereupon the plaintiff rested.

Defendants' Evidence.

JACOB G. BECK, a witness on the part of the defendants, testified as follows:

I reside in the city of Des Moines and was deputy assessor from 1896 or 1897 until January 1, 1903.

Q. I hand you exhibit No. 3, being assessment roll, being
26 assessment of the Peoples Savings Bank for the year 1902, showing an item, corporation stock $122,871.00, and ask you what is the basis of that assessment; what does the term, "corporation stock," represent?

Objected to as incompetent, because in the first place this exhibit is not the assessment roll, but is the notice that was sent to the bank, and the assessment roll does not show that there was any assessment made on account of corporation stock, and the question therefore assumes that the assessment roll showed that, and as incompetent for the further reason that parol evidence is not competent to contradict or vary the record of the assessment as made by the proper assessing officers.

Q. Did you make that assessment?

A. Yes, sir.

Q. Will the reporter now read the preceding question.

(Reporter reading.) Objection renewed.

A. What I considered the value of their stock, what I considered it to be worth, after deducting their real estate, at that time.

By the stock of the bank I mean the shares of stock of the People's Savings Bank.

The COURT: Was this other corporation stock that was held by the bank included in that?

The WITNESS: No, sir. That is, you mean stocks of other corporations?

The COURT: Yes, sir.

The WITNESS: No, sir, otherwise than if those helped to make up the value of their stock; that would be the only way they would be included.

I helped to make up the assessor's book for 1902. The assessment shown on page 115, No. 6575, in the Assessor's Book 1902, City of Des Moines, Second District, Polk county, Iowa, for $122,871.00 against People's Savings Bank is based upon just what I told you, upon the value of the stock of their bank, less the real estate in my opinion, at that time.

Q. The value of the shares of stock.
27 A. The value of the shares of stock of the bank.

Cross-examination:

I deducted the value of the real estate. I did not deduct the value of the stock of other corporations that this bank might own and I did not deduct the value of the government bonds.

The COURT: As I understand you, you did not pay any attention to stock in other corporations?

The WITNESS: Other than if they would enhance or make the value of their own stock worth more or less.

The COURT: To ascertain the value of the bank stock?

The WITNESS: Yes, sir.

The COURT: Your assessment was fixed on that?

The WITNESS: They furnished a statement that helped me to arrive at what I thought was the value, and other things.

This exhibit 4 is the stub of the assessment roll. Attached to each of these stubs is the blank notice which we give to the property owner. I did not make out exhibit 4. It was all made out by Mr. French, the assessor, except the figures in lead pencil. I should judge the figures in lead pencil are $122,871. I do not know who put them in. I could only give an opinion. I could not say positively whose figures they are, but it was some of the clerical force in the office. I could not say certainly who scratched out this $55,171.98 except that it was some one in the office under the instructions of the assessor. When I sent out this exhibit 3 I did not make out a new stub.

With reference to this assessor's book I notice that where the figures $122,871 appear under the head of moneys and credits there has been an erasure. This $122,871 looks like Miss Hall's
28 figures. I would not think that the original of this item, under moneys and credits, was $55,171.98, corresponding with the original assessment. I think it was not because it would have been in here if it was, (indicating) in the actual value column, if it had been $55,000 over there. That would be my judgment. I think it would have been scratched in both places.

There were changes made in the assessments of some of the other banks in Des Moines at about that time. There were not any savings banks here in Des Moines which owned government bonds whose assessments were not changed just about that time. It was an oversight if there were. And in each instance the assessments of these savings banks, when they were changed, were increased and the increase was probably to an amount equal to their holdings of government bonds.

As to whether when I came to change this assessment it was my opinion that it was too low because it did not include government bonds, it was my opinion that it was a proper assessment when I made it.

Q. I have no doubt of that, but this assessment that was shown by the assessment roll was originally $55,171.98, and you increased that to $122,871.00. You thought that this first assessment was wrong because it didn't include the government bonds?

A. They had been deducted from the value of their stock at that time; yes, sir.

Q. You evidently thought they ought to be included?

A. After I consulted with the city attorney I thought that they ought to be assessed for the value of their shares of stock irrespective of their government bonds.

Q. Without taking the bonds into account and deducting them?

29 A. Yes, sir.

Q. Just about this time this question had been referred to the city attorney?

A. Yes, sir.

Q. He had given an opinion saying these bonds ought not to be deducted in making this assessment?

A. I don't know. His opinion to me wasn't about that. It was simply as to how to make the assessment.

When I discovered that I had apparently made the assessments on an erroneous basis, because I had deducted these bonds, they were changed right through.

With reference to the books, the assessment roll book is the stub book and is the book that is carried by what we call field men, the men actually making the assessments.

Q. You make the assessment on the stub, and then tear off the corresponding notice notifying the property owner?

Objected to as incompetent, irrelevant and immaterial.

A. Make a copy of it, yes, sir.

From these assessment roll books the clerical force in the assessor's office makes up the assessor's book.

Thereupon the defendant rested.

Thereafter and on the second day of December, 1903, the court entered in this cause the following

Decree.

Now on this second day of December, 1903, being the September term of this court, this cause came on for hearing in regular order, the plaintiff appearing by its attorney, N. T. Guernsey, and the defendants appearing by W. H. Bremner, city solicitor. After hearing the evidence and arguments of attorneys, and being fully advised in the premises, the court finds that the equities are with the defendants.

Therefore, be it ordered, adjudged and decreed that this
30 appeal be and is hereby dismissed and the costs of this action taxed to the plaintiff, to all of which the Peoples Savings Bank then and there at the time duly excepted, and by the consent of the parties, the said Peoples Savings Bank is granted sixty days from this date within which to file its bill of exceptions herein.

Thereafter the transcript of the testimony in the said cause was duly certified and filed in the office of the clerk of the court below. The said transcript was certified by the judge, who was the presiding

judge upon the trial of the said cause in the court below, and the certificate was in such form as to fully preserve and make a matter of record all of the testimony either introduced or offered on the trial of the said cause, and all proceedings had upon the trial of the said cause, and all rulings of the court on the said trial, and all motions and objections and exceptions taken by the parties, and all rulings on the same, and all of the said matters were duly made a matter of record in the said cause.

That thereafter on the twenty-second day of January, 1904, the said evidence, including all of the evidence introduced or offered on the trial of the said cause, together with the said certificate, was filed in the office of the clerk of the said district court.

Appeal.

Thereafter and on the twentieth day of February, A. D. 1904, the said Peoples Savings Bank duly perfected its appeal to the supreme court of Iowa from the judgment and decree of the court below, and from all of the rulings in the court below in this cause adverse to the appellant; that said appeal was duly perfected in all
31 respects as required by law and the rules of the said supreme court and that due and legal notice of the said appeal was given and filed in the office of the clerk of the court below and that the clerk of the court below was secured his fees for a transcript.

The foregoing is a complete abstract of all of the proceedings, pleadings, evidence, motions, rulings, objections and exceptions filed or taken in the above entitled cause; and contains all of the evidence offered or introduced on the trial thereof, together with the decree of the court rendered therein, as well as the pleadings and the notice of appeal.

N. T. GUERNSEY,
Attorney for Appellant.

The actual cost of printing the foregoing abstract is the sum of $36.07.

N. T. GUERNSEY,
Attorney for Appellant.

31*a* And that thereafter and on or about the 29th day of September A. D. 1904, there was filed in the said cause the appellant's assignment of errors in the words and figures following to-wit:

31*b* Service of the within assignment of errors is hereby accepted and receipt of two copies thereof acknowledged this 29th day of September, A. D. 1904.

W. H. BREMNER,
By M. H. COHEN, *Ass't*
Attorney for Appellee.

In the Supreme Court of Iowa, September Term, A. D. 1904. In Equity.

PEOPLES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

Appeal from Polk District Court.

Hon. James A. Howe, Trial Judge.

N. T. Guernsey, Attorney for Peoples Savings Bank, Appellant.
W. H. Bremner, M. H. Cohen, R. B. Alberson, Attorneys for Appellee-.

Filed Sept. 29, 1904.

JNO. C. CROCKETT,
Clerk Supreme Court.

32 *Assignment of Errors.*

The appellant, the Peoples Savings Bank, states that there is manifest error upon the face of the record in this cause, and assigns the following errors:

First: That the court below erred in not deducting from the assessment of the appellant the value of the bonds of the United States of America held by it on January 1, 1902, amounting to $62,060.00.

Second: That the court below erred in not deducting from the amount of the said assessment the sum of $840.00 on account of the shares of the Oak Park Land Company owned by the appellant January 1, 1902.

Third: That the court below erred in not deducting from the said assessment the value of the shares of the Citize National Bank of Des Moines, Iowa, owned by the appellant January 1, 1902.

Fourth: That the court below erred in not deducting from the said assessment the value of the shares of the Des Moines Insurance Company owned by the appellant January 1, 1902.

Fifth: That the court below erred in not deducting from the said assessment the value of the shares of the State Trust Company owned by the appellant January 1, 1902.

Sixth: That the court below erred in not holding section 1322 of the code of Iowa to be void, in so far as it authorizes the assessment of bonds of the United States of America for taxation because

33 (*a*) Such assessment is prohibited by the statutes of the United States; and,

(*b*) Any law authorizing such assessment is in contravention of the constitution of the United States.

Seventh: That the court below erred in not holding section 1322 of the code to be void if or in so far as the said section authorizes

the taxation of savings banks upon property not owned by them, but owned by their shareholders.

Eighth: That the court below erred in not holding that section 1322 is in fact a provision for the taxation of the property of savings banks and in not holding that under this section bonds of the United States of America, should be deducted, and should not be assessed for taxation.

Ninth: That the court below erred in confirming the assessment appealed from by the Peoples Savings Bank.

N. T. GUERNSEY,
Attorney for Appellant.

I hereby certify that the actual cost of printing the foregoing assignment of errors is $2.70.

N. T. GUERNSEY,
Attorney for Appellant.

34 And that thereafter and on or about the 24th day of September A. D. 1904, there was filed in the said cause a motion to advance the same, and on the 21st day of September, 1904, a stipulation, which motion and stipulation are in the words and figures as follows, to-wit:

35 In the Supreme Court of Iowa, September Term, A. D. 1904.

PEOPLES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

DES MOINES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

HOME SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

Motion to Advance and to Assign for Hearing Together.

Come now the appellants in the above entitled causes and move that the same be advanced and assigned for hearing at such day as the court may fix in the third period of the present term of this court, and that when so heard the said cases be heard together and that but one printed brief be required in behalf of the appellants in the said cases, and that but one printed brief be required in behalf of the appellees therein, and as grounds for the said motion respectfully show to the court as follows, to-wit:

First: The question involved in each of the said cases is whether the provisions of the code relative to the taxation of savings banks as construed by this court, as affecting the taxation of gov-
36 ernment bonds, is in contravention of the statutes of constitution of the United States.

This is a question of general and public interest affecting the taxing power, of the state, and its revenues, and should promptly be decided, and cannot be presented to the supreme court of the United States for final decision until first passed upon by this court.

Second: The cases involve but the one controverted question which we have indicated, and, consequently, can properly be submitted together, all of the parties on each side joining in the same brief instead of requiring separate briefs by each party.

N. T. GUERNSEY,
Attorney for Peoples Savings Bank, Appellant.
BERRYHILL & HENRY,
Attorneys for Des Moines Savings Bank, Appellant.
DALE & HARVISON,
Attorneys for Home Savings Bank, Appellant.

Endorsed as follows: Filed Sept. 24, 1904. Jno. C. Crockett, Clerk Supreme Court.

37 In the Supreme Court of Iowa, September Term, A. D. 1904.

PEOPLES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

DES MOINES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

HOME SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Appellee-.

Stipulation.

It is stipulated by the parties to the above entitled causes that the same may be advanced, and set for hearing upon such day in the third period of the present September term, 1904, of the said court, as the court may designate, and that they may be submitted together upon one printed brief in behalf of all of the appellants and a single brief in behalf of the appellees.

If the said cause is so advanced, the appellants shall serve their brief on or before the 1st day of October, 1904, and the appellees' brief shall be served upon the appellants on or before the 1st day of

November, 1904, the appellants' reply to be served the usual
38 time before the hearing.

N. F. GUERNSEY,
Attorney for Peoples Savings Bank, Appellant.
BERRYHILL & HENRY,
Attorneys for Des Moines Savings Bank, Appellant.
DALE & HARVISON,
Attorneys for Home Savings Bank, Appellant.
W. H. BREMNER,
M. H. COHEN,
R. B. ALBERSON,
Attorneys for City of Des Moines, and the City Council of said City, Acting as a Board of Review.

Endorsed as follows: Filed Sept. 21st, 1904. Jno. C. Crockett, Clerk, Supreme Court.

39 And that thereafter there was entered in the said cause an order sustaining the said motion, in the words and figures following to-wit:

23525.

PEOPLES SAVINGS BANK ET AL., Appellants,
vs.
CITY OF DES MOINES.

Appellants' motion to advance having been fully considered by the court is sustained.

It is ordered that cause be advanced and that it be docketed and submitted during the third period.

40 That thereafter and on or about the 17th day of December 1904, the supreme court of Iowa filed its opinion in the said cause affirming the judgment of the court below, which opinion is in the words and figures following to-wit:

41 Supreme Court of Iowa.

Filed Dec. 17, 1904.

PEOPLE'S SAVINGS BANK, Appellant,
vs.
THE CITY OF DES MOINES and THE BOARD OF REVIEW OF SAID CITY, Appellees.

THE DES MOINES SAVINGS BANK, Appellant,
vs.
SAME DEFENDANTS, Appellees.

THE HOME SAVINGS BANK, Appellant,
vs.
SAME DEFENDANTS, Appellees.

Appeal from Polk District Court.

Hon. James A. Howe, Judge.

Appeal from the judgment of the district court affirming the action of the board of review of the City of Des Moines in refusing to deduct from the assessment of the appellant banks upon its shares of stock the amount of government bonds owned by them.

N. T. Guernsey, for People's Savings Bank.
Berryhill and Henry, for Des Moines Savings Bank.
Dale & Harvison, for Home Savings Bank.
W. H. Bremner, M. H. Cohen & R. B. Alberson, for Appellees.

42 *Per Curiam.*—This court is fully committed to the doctrine that the general exemption from state taxation with which the bonds of the United States are clothed, does not entitle the bank to deduct the amount of such bonds from the value of the shares of their stock which are assessed to it for the purposes of taxation under Code section 1322.

German Savings Bank *vs.* Burlington 118 Iowa 84.
National State Bank *vs.* Burlington 119 Iowa 696.
1st National Bank *vs.* Independence 122 Iowa 482.

We are favored by an elaborate and able argument for appellants insisting that such taxation cannot be upheld especially as applying to savings banks, and that this position has the support of the federal supreme court whose holdings in the last resort must govern the rights of the parties. These propositions were presented quite fully in the cases above cited and we are still satisfied with the conclusions there reached. Those cases have all been decided within such recent period that a rediscussion of the subject and of the bearings of the various precedents cited is not called for.

The judgment of the district court is affirmed.

43 And that thereafter and on the said 17th day of December A. D. 1904, the supreme court of Iowa, rendered its final judgment in the said cause in the words and figures following to-wit:

44 Supreme Court of Iowa.

STATE OF IOWA, *ss:*

Be it remembered, that on the 17th day of December, A. D. 1904, the following proceedings, among others, were had and entered of Record in the Supreme Court of Iowa, to-wit:

Appeal from Polk District Court.

No. 23525.

PEOPLES SAVINGS BANK, Appellant,
vs.
CITY OF DES MOINES and THE BOARD OF REVIEW OF SAID CITY, Appellees.

In this cause, the Court being fully advised in the premises, file their written opinion affirming the judgment of the District Court.

It is therefore considered by the Court that the judgment of the Court below be and it is hereby affirmed and that a writ of *procedendo* issue accordingly.

It is further considered by the Court that the appellant pay the costs of this appeal taxed at $28.25 and that execution issue therefor.

45 And that thereafter and on or about the 13th day of July, A. D. 1905, the Peoples Savings Bank filed in the office of the clerk of the supreme court of Iowa its petition for a writ of error in the words and figures following to-wit:

46 In the Supreme Court of the United States.

PEOPLES SAVINGS BANK, Plaintiff in Error,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Defendants in Error.

Petition for Writ of Error to the Supreme Court of Iowa.

To the Honorable John C. Sherwin, Chief Justice of the Supreme Court of Iowa:

Your petitioner the Peoples Savings Bank now comes and respectfully states:

That it is and was at all the times hereinafter mentioned, a corporation duly created, organized and existing under and by virtue

of the laws of the state of Iowa, for the transaction of a banking business; and that its principal place of business is, and was at all of the times hereinafter mentioned, at the city of Des Moines in the said state.

That on or about the 9th day of April, A. D. 1902, the duly elected and qualified assessor of the said city of Des Moines, who was at that time the proper person under the laws of the state of Iowa, to assess for taxation the property of the plaintiff in error, did assess for taxation the property of the plaintiff in error in the sum of $55,171.98, and that thereafter and on or about the 22nd day of April, 1902, the said assessor increased said assessment of the property of the plaintiff in error by the sum of $67,699.02, and made the assessment upon the said property of the plaintiff in error the sum of $122,871.00, instead of the sum of $55,171.98.

47 That the said increase of $67,699.02 in the assessment of the property of the plaintiff in error was an assessment, for the purposes of taxation under the laws of the state of Iowa, of bonds of the United States of America owned by the plaintiff in error, said bonds being bonds, issued by the said United States of America pursuant to the war revenue act of Congress approved June 13, 1898 (30 Statutes at large, page 488), known as coupon 3's.

That of the capital stock of the plaintiff in error there was actually invested in the said bonds, upon the date as of which under the laws of the state of Iowa, the assessments for taxation for the year A. D. 1902 were made, the sum of $62,060, and that the said increase in the said assessment was an assessment for the purpose of taxation of the said bonds of the United States of America so owned by the plaintiff in error.

That after the said assessment had been so increased the plaintiff in error, in accordance with the laws of the state of Iowa in such cases made and provided, appealed to the city council of the said city of Des Moines, sitting as a board of review, or of equalization, and thereafter and on or about the 29th day of April, 1902, the said city council, so sitting, refused to annul said increase of assessment and overruled the objections and appeal of the plaintiff in error, and confirmed and approved the said assessment in the said sum of $122,871.

That thereafter in accordance with the laws of the state of Iowa, in such cases made and provided, the plaintiff in error appealed from the final decision of said city council, so sitting as a board of review or of equalization, to the district court of the state of Iowa, in and for Polk county, where said cause was tried to the court on its merits as an equity cause, without special assignments of error; and such proceedings were had therein as that, on or about the 2nd day of December A. D. 1903, the said district court entered of record its final decree in the said cause dismissing the appeal of this

48 plaintiff in error from the said assessment and confirming the same, and rendering judgment against this plaintiff in error for the costs of the said appeal; to all of which this plaintiff in error then and there at the time duly excepted. That thereafter in accordance with the laws of the state of Iowa, in such cases made and provided, this plaintiff in error appealed from said final decree of the

said district court in the said matter, to the supreme court of Iowa, the said supreme court being the highest court at law or in equity in the said state of Iowa, in which a decision could be had in said cause.

That said cause was triable *de novo* in the said supreme court of Iowa, without assignments of error, and was submitted to the said supreme court of Iowa upon what, under the rules of the said court, is known as a printed abstract of the record of said cause, which abstract contained all pleadings and papers filed therein, all evidence offered upon the trial thereof, and all rulings and orders made upon said trial in the said district court, and all proceedings had or done upon the said trial, together with the final judgment and decree rendered and entered of record in the said cause in said district court, and the taking of the appeal therefrom.

That thereafter such proceedings were had in the said cause in the said supreme court as that, after having been duly argued by counsel for both the plaintiff and defendant in error, the same was finally submitted to the said supreme court of Iowa, on the 22nd day of November A. D. 1904, and thereafter and on or about the 17th day of December A. D. 1904, the said supreme court of Iowa, filed in said cause, its opinion affirming the judgment and decree of the said district court (which opinion is reported at Volume 101 Northwestern Reporter, page 867); and in pursuance of said opinion, on the 17th day of December A. D. 1904, a final judgment and decree was rendered and entered of record in the said cause by the said supreme court of Iowa, in favor of the parties hereinbefore
49 named as defendants in error, and against this plaintiff in error, affirming the said judgment and decree of the said district court and rendering judgment against this plaintiff in error for the costs upon said appeal.

That the questions submitted to the said Supreme Court of Iowa, for decision and decided against this plaintiff in error by that court in this cause were:

First: Do the statutes of the state of Iowa in such cases made and provided, and especially section 1322 of the code of 1897 of Iowa, require the assessment for purposes of taxation of bonds of the United States of America, constituting a part of the assets of the plaintiff in error in which its capital is invested, and are these statutes therefore void because in contravention of Section 8, Article I, of the Constitution of the United States and of the statutes of the United States?

Second: Was the assessment in controversy void because it was an assessment for taxation levied upon bonds of the United States of America, owned by the plaintiff in error, in contravention of the provisions of Section 8, Article I, of the Constitution of the United States, and of the statutes of the United States?

Third: Do the statutes of the state of Iowa, in such cases made and provided, and especially section 1322 of the Code of 1897 of Iowa, require the assessment to the plaintiff in error, for the purposes of taxation, of the shares of its stock owned by its shareholders, and the exaction from it of the taxes levied on said assessments, without

provision for the reimbursement of the plaintiff in error, and are these statutes therefore void, because in contravention of the provisions of Section I, Article XIV of the Amendments to the Constitution of the United States that no state shall deprive any person of his property without due process of law, and that no state shall deny to any person the equal protection of the laws?

50 *Fourth:* If it be considered an assessment upon the shares of its stock owned by the shareholders of the plaintiff in error, was the assessment in question, and are the taxes levied thereon void because to assess to the plaintiff in error for the purposes of taxation the property of others and to exact from it taxes levied upon such assessments, without any provision for the reimbursement of the plaintiff in error on account of such taxes, would be to take the property of the plaintiff in error without due process of law and to deny to it the equal protection of the laws in contravention of Section I, Article 14, of the Amendments to the Constitution of the United States?

That the final judgment and decree so rendered by the supreme court of Iowa is unwarranted in law as plaintiff in error is advised.

Plaintiff in error presents herewith a bond in proper form and an assignment of errors, and prays that a writ of error may be allowed so as to have a review in the supreme court of the United States of said decision, and judgment and decree of said supreme court of Iowa, and that a citation issue in due form and course to require each of the defendants above named to appear to said writ of error and show cause why such judgment of the said supreme court should not be corrected as provided by law, and the rules of this court.

PEOPLES SAVINGS BANK,
Plaintiff in Error,
By N. T. GUERNSEY, *Its Attorney.*

N. T. GUERNSEY,
Attorney for Plaintiff in Error.

STATE OF IOWA, *Polk County, ss:*

I, N. T. Guernsey, being duly sworn on oath depose and say that I was the attorney for the plaintiff in error, the Peoples Sav-
51 ings Bank, throughout all of the proceedings above referred to, from the proceeding before the Board of Review to and including the final proceedings before the supreme court of the state of Iowa; that I have personal knowledge of the contents of the foregoing application for a writ of error, and that the matters and things therein set forth are true as I verily believe.

N. T. GUERNSEY.

Subscribed and sworn to before me by the said N. T. Guernsey, on this 12th day of July A. D. 1905.

[NOTARIAL SEAL.] F. A. BROWN,
Notary Public in and for
Polk County, Iowa.

Writ of error allowed this 12 day of July A. D. 1905.

JOHN C. SHERWIN,
Chief Justice of the Supreme Court of Iowa.

52 [Endorsed:] Peoples Savings Bank *vs.* City of Des Moines *et al.* Petition for Writ of Error. Filed Jul. 13 1905 Jno. C. Crockett, Clerk Supreme Court.

53 And that with the said petition for a writ of error and on the same day the said Peoples Savings Bank filed in the office of the said clerk, its assignment of errors, in the words and figures following to-wit:

54 In the Supreme Court of the United States.

PEOPLES SAVINGS BANK, Plaintiff in Error,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Defendants in Error.

Assignment of Errors.

Comes now the plaintiff in error, the Peoples Savings Bank, and avers that the judgment and decree rendered by the supreme court of Iowa against the plaintiff in error in the above entitled cause on the 17th day of December A. D. 1904, is erroneous, and against the rights of the plaintiff in error; and as and for its assignment of errors upon which it relies for a review and reversal of said judgment and decree, plaintiff in error respectfully shows to the court that there is manifest error upon the face of the record, and in said judgment and decree of the supreme court of Iowa, and the record and proceedings in said cause in the following respects, to-wit:

First: That the supreme court of Iowa erred in rendering its judgment and decree affirming the assessment for taxation made against the plaintiff in error, in controversy in this cause, and affirming the said judgment and decree of the district court of the state of Iowa, in and for Polk county.

Second: That the supreme court of the state of Iowa erred in holding that the assessment complained of was not an assessment for taxation levied upon bonds of the United States which were the property of the plaintiff in error.

Third: That the supreme court of Iowa erred in holding that the bonds of the United States owned by the plaintiff in error were not exempt from taxation under the provisions of section 8, Article I of the Constitution of the United States.

55 *Fourth:* That the supreme court of Iowa erred in holding that the bonds of the United States owned by the plaintiff in error were not exempt from taxation under the provisions of section 3701 of the Revised Stat-es of the United States.

Fifth: That the supreme court of Iowa erred in holding that the bonds of the United States owned by the plaintiff in error were not

exempt from taxation under the provisions of the Act of Congress under which said bonds were issued, it being an act entitled, "An act to provide ways and means to meet war expenditures and for other purposes," approved June 13, 1898.

Sixth: That the supreme court of Iowa erred in holding that the property of the shareholders of the plaintiff in error should be assessed and taxed to the plaintiff in error, without provision for its reimbursement for taxes so paid, by the owners of the property taxed, because,

(*a*) To so hold is a denial to the plaintiff in error of the equal protection of the laws, in contravention of the provisions of the Fourteenth Amendment to the Constitution of the United States whic- provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.

(*b*) To subject the plaintiff in error to such taxation constitutes a taking of the property of the plaintiff in error without due process of law in contravention of the provision of the Fourteenth Amendment to the Constitution of the United States, which provides that no state shall deprive any person of his property without due process of law.

Seventh: That the Supreme Court of Iowa erred in holding that the assessment in question could properly be made under section 1322 of the Code of 1897, of Iowa, because:

(*a*) If the said section authorizes the assessment of bonds of the United States for purposes of taxation the same is void because in contravention of section 8, Article I, of the Constitution of the
56 United States.

(*b*) If said section authorizes the assessment for purposes of taxation of bonds of the United States the same is void because in contravention of section 3701 of the Revised Statutes of the United States.

(*c*) If said section authorizes the assessment for taxation of said bonds of the United States the same is void because in contravention of the express provisions of the Act of Congress under which said bonds were issued, it being an act entitled, "An act to provide ways and means to meet war expenditures and for other purposes," approved June 13th, 1898.

(*d*) If the said section authorizes the assessment for taxation of the bonds of the United States which were sought to be assessed, the same is void because in contravention of the provision of Section I, Article XIV of the Amendments to the Constitution of the United States that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States because under both the laws and Constitution of the United States plaintiff in error was entitled to hold the bonds in question exempt from taxation by the State of Iowa.

(*e*) If the said section authorizes the assessment against the plaintiff in error for purposes of taxation of the shares of its stock which are the property of its shareholders, and the exaction from the plaintiff in error of taxes levied upon such assessment, then the said section is void because in contravention of the provision of Article XIV

of the Amendments to the Constitution of the United States which provides "nor shall any state deprive any person of life, liberty or property without due process of law" there being no provision in the laws of the state of Iowa for the reimbursement of the plaintiff in error for taxes so exacted from it.

(*f*) If the said section authorizes the assessment against the plaintiff in error for purposes of taxation of the shares of its stock which are the property of the shareholders, and the exaction
57 from the plaintiff in error of taxes levied upon such assessment, then the said section is void because in contravention of Section I of Article XIV of the Amendments to the Construction of the United States which provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." The laws of Iowa provide that all property shall be taxed to the owners thereof, and where corporations other than savings banks are made primarily liable for taxes imposed upon their shares of stock, provide for their reimbursement, but these laws make no provision for the reimbursement of savings banks on account of taxes levied against the shares of their stock and exacted from the banks.

Eighth: That the Supreme Court erred in holding that the plaintiff in error is subject to taxation, without reimbursement upon shares of stock not owned by it, because

(*a*) Such taxation amounts to a taking of the property of the plaintiff in error without due process of law, in contravention of the provision of Section I, Article XIV of the Amendments to the Constitution of the United States that no state shall deprive any person of his property without due process of law.

(*b*) Such taxation amounts to denial to the plaintiff in error of the equal protection of the laws, in contravention of the provision of Section I, of Article XIV of the Amendments to the Constitution of the United States, that no state shall deny to any person within its jurisdiction the equal protection of the laws.

Ninth: That the supreme court of Iowa erred in refusing to deduct from the assessment of the plaintiff in error the item of $4040.00 on account of stocks in other corporations owned by it.

Tenth: That the supreme court of Iowa erred in refusing to deduct from the assessment in controversy the item of $8480.00 on account of real estate owned by the plaintiff in error.

58 Wherefore plaintiff in error prays that said order and final judgment of said supreme court of Iowa be reversed with costs of suit.

Dated this 12th day of July, A. D. 1905.

PEOPLES SAVINGS BANK,
Plaintiff in Error,
By N. T. GUERNSEY, *Its Attorney.*

N. T. GUERNSEY,
Attorney for Plaintiff in Error.

59 [Endorsed:] 9. 23525. Peoples Savings Bank *vs.* City of Des Moines *et al.* Assignment of Errors. Filed Jul- 13, 1905. Jno. C. Crockett, Clerk Supreme Court.

60 And on the said 13th day of July 1905, the said Peoples Savings Bank filed in the office of the said clerk its writ of error in the words and figures following to-wit:

61 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Honorable the Judges of the Supreme Court of Iowa, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between the Peoples Savings Bank appellant and the City of Des Moines and the City Council of said City as a board of review, appellees, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of,
62 or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission; a manifest error hath happened to the great damage of the said Peoples Savings Bank as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within thirty days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 12th day of July, in the year of our Lord one thousand nine hundred and five.

[Seal U. S. Circuit Court, Southern District Iowa.]

EDWARD R. MASON,
Clerk of the Circuit Court for the Southern District of Iowa,
By MAZE VERNON, *Deputy.*

Allowed by
JOHN C. SHERWIN,
Chief Justice of the Supreme Court of Iowa.

Fee for writ $1.00 paid.

E. R. MASON, *Clerk,*
By MAZE VERNON, *Deputy.*

63 [Endorsed:] 9. 23525 Peoples Savings Bank, Plaintiff in Error, *vs.* City of Des Moines & the City Council of said City as a board of review, Defendants in Error. Writ of Error. Filed Jul- 13 1905 Jno. C. Crockett Clerk Supreme Court.

64 And on the same day, it filed in the office of the said clerk, its bond, in the words and figures following to-wit:

65 *Extract from the Record Book of the Board of Trustees of the American Surety Company of New York.*

"The regular quarterly meeting of the Board of Trustees of the American Surety Company of New York was held at the Company's office, No. 100 Broadway, in the City of New York, on Wednesday, January 18, 1905, at 12 o'clock noon.

* * * * * * *

"The Secretary read the report of the Nominating Committee as follows:

"To the Board of Trustees of the American Surety Company of New York:

"GENTLEMEN: The Committee appointed by the Executive Committee of this Company at their meeting held Wednesday, December 21, 1904, for the purpose of nominating officers of the Company, * * * for the ensuing year, beg leave to report as follows:

"We nominate for

* * * * * * *

Resident Vice Presidents at Des Moines, Iowa:

Jos. G. Rounds.
Chas. H. Martin.
Arthur Reynolds.

Resident Assistant Secretaries at Des Moines, Iowa:

E. D. Samson.
W. H. Baily.

* * * * * * *

"Whereupon, it was

"Resolved, that the Secretary be authorized to cast one ballot on behalf of the Trustees present for the officers, members of the Executive Committee, and for the members of the Committee on Accounts, as recommended by the Nominating Committee for the ensuing year; which was done, and thereupon the aforementioned persons were declared to have been unanimously elected to their respective offices for the ensuing year.

* * * * * * *

"The folowing resolution was adopted:

"Resolved, that the Resident Vice-Presidents be and they hereby are, and each of them is hereby, authorized and empowered to execute and to deliver and to attach the seal of the Company to any and all obligations for or on behalf of the Company, such obligations, however, to be attested in every instance by the Resident Assistant Secretary."

* * * * * * *

STATE OF NEW YORK, *County of New York, ss:*

I, F. J. Parry, Assistant Secretary of the American Surety Company of New York, do hereby certify that I have compared the foregoing extracts and transcripts, from the Record Book of the Board of Trustees of the American Surety Company of New York, with the original record of said Board, and that the same are correct extracts and transcripts therefrom as they appear of record and are set forth and contained in said Record Book; and I further certify that I have compared the foregoing resolutions with the originals thereof, as recorded in the Minute Book of said Company, and do certify that the same is a correct and true transcript therefrom, and of the whole of said original resolutions; and that the said resolutions have not been revoked or rescinded.

Given under my hand and the seal of the Company, at the City of New York, this 27th day of February, 1905.

[Seal American Surety Company of New York.]

F. J. PARRY,
Assistant Secretary.

66 Know all Men by these presents, That we, the Peoples Savings Bank, a banking corporation organized under the laws of Iowa, as principal, and the American Surety Company of New York, as surety, are held and firmly bound unto the City of Des Moines and the City Council of said city as a board of review in the full and just sum of Five Hundred 00/100 dollars, to be paid to the said City of Des Moines and the City Council of said City as a board of review its certain attorney, executors, administrators, or assigns: to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 12th day of July, in the year of our Lord one thousand nine hundred and five.

Whereas, lately at a session of the Supreme Court of the State of Iowa in a suit depending in said Court between the said Peoples Savings Bank as appellant and the said City of Des Moines and the City Council of said city as a board of review, as appellees, a *a* judgment and decree was rendered against the said Peoples Savings Bank and the said Peoples Savings Bank having obtained a writ of error and filed a copy thereof in the Clerk's Office of the said Court to reverse the judgment and decree in the aforesaid suit, and a citation directed to the said City of Des Moines and the City Council of said city as a board of review citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date thereof.

Now, the condition of the above obligation is such, That if the said Peoples Savings Bank shall prosecute writ of error to effect, and

answer all damages and costs if it fail to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

[Seal Peoples Savings Bank, Des Moines, Ia.]

PEOPLES SAVINGS BANK, [SEAL.]
By FRANK P. FLYNN, *Ass't Cashier.*

[Seal American Surety Company, New York.]

AMERICAN SURETY COMPANY OF NEW YORK, *Surety,* [SEAL.]
By J. G. ROUNDS, *Res. Vice-Pres't.*

Attest:
E. D. SAMSON, *Res. Ass't Sec'y.*

Sealed and delivered in presence of—
F. T. VAN LIEW.
E. A. SHIRINGER.

Approved by—
JOHN C. SHERWIN,
Chief Justice of the Supreme Court of Iowa.

67 [Endorsed:] 9. 23525. Peoples Savings Bank Plaintiff in Error *vs.* City of Des Moines & the City Council of said City as a board of review, Defendants in Error. Bond. Filed Jul. 13 1905 Jno. C. Crockett Clerk Supreme Court.

68 And on the 14th day of July, A. D. 1905, it filed in the office of the said clerk, a citation and the return of service, in the words and figures following to-wit:

69 UNITED STATES OF AMERICA, *ss:*

To the City of Des Moines, and the City Council of said City as a board of review, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the supreme court of the state of Iowa wherein The Peoples Savings Bank is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable John C. Sherwin, Chief Justice of the Supreme Court of Iowa, this 12th day of July, in the year of our Lord one thousand nine hundred and five.

JOHN C. SHERWIN,
Chief Justice of the Supreme Court of Iowa.

70 [Endorsed:] Peoples Savings Bank, Plaintiff in Error, *vs.* City of Des Moines & The City Council of said City as a board of review, Defendants in Error. Citation. Filed Jul- 14, 1905. Jno. C. Crockett, Clerk Supreme Court.

On this 13th day of July, in the year of our Lord one thousand nine hundred and five, personally appeared A. G. Rippey before me, the subscriber, Chas. Hutchinson a notary public in and for Polk County, Iowa, and makes oath that he delivered a true copy of the within citation to Geo. W. Mattern, Mayor of the City of Des Moines, and to N. B. Vertrees, City Clerk of the City of Des Moines, and Wm. H. Bremner, attorney for the defendants in error in the court below.

A. G. RIPPEY.

Sworn to and subscribed the 13th day of July, A. D. 1905.

[Notarial Seal Chas. Hutchinson, Iowa.]

CHAS. HUTCHINSON,
Notary Public in and for Polk County, Iowa.

Service of the within citation is hereby accepted July 13, 1905.

W. H. BREMNER,
M. H. COHEN,
R. B. ALBERSON,
City Attorneys for City of Des Moines & Attorney for City of Des Moines & the City Council of said City as a Board of Review.

71 In the Supreme Court of the State of Iowa.

23525.

PEOPLES SAVINGS BANK, Plaintiff in Error,
vs.
CITY OF DES MOINES and THE CITY COUNCIL OF SAID CITY AS A BOARD OF REVIEW, Defendants in Error.

Return of Clerk on Writ of Error.

UNITED STATES OF AMERICA, *State of Iowa, ss:*

I, Jno. C. Crockett, Clerk of the Supreme Court of Iowa, in pursuance to the command of the writ of error in the above entitled cause, to which this certificate is attached, do hereby certify and return that the above and foregoing is a true and correct transcript of the record, opinion and final judgment of this court in the case of the Peoples Savings Bank, plaintiff in error, *vs.* the City of Des Moines, and the City Council of the said city as a Board of Review, defendants in error as full, true and complete as the same are now of record and on file in my office.

I further certify that the assignment of errors, bond, petition for allowance of writ of error, and citation, with return of service and acceptance thereof, are attached hereto in the original form, true and correct copies of the same being retained on file in this office.

I further certify that the attached writ of error was duly served upon me by lodging with me a copy thereof on the 13th day of July, A. D. 1905.

In witness whereof I have hereunto subscribed my name and affixed the seal of the said court, on this 14 day of July, A. D. 1905.

[Seal of the Supreme Court of Iowa.]

JNO. C. CROCKETT,
Clerk of the Supreme Court of Iowa.

Endorsed on cover: File No. 19,853. Iowa supreme court. Term No. 83. Peoples Savings Bank, plaintiff in error, *vs.* The City of Des Moines and The City Council of said City as a Board of Review. Filed July 24, 1905. File No. 19,853.